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EXAMINER

ROSE, HELENE ROBERTA

ART UNIT

PAPER NUMBER

2163

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,653

Applicant(s)

GAYNOR ET AL.

Examiner

Helene Rose

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Detailed Action

1. In response to communications filed on April 19, 2006, claims 1, 5-49 and 54-94 have been amended; No claims were cancelled or added. Therefore, claims 1-94 are presently pending in this application.
2. Applicant's arguments filed on April 19, 2006 have been fully considered have been fully considered (MPEP 714.04; 37 CFR 1.111) but they are not persuasive.

Claim Rejections – 35 U.S.C 112

3. In view of the amendments to claims 1,5-10,12-24,28-42,44-49,54-73,79-88,and 90-94 reciting the following limitation “creative content file(s)”. The Examiner withdraws the rejection under 35 U.S.C 112, first paragraph.
4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 15, 22-23, 38, 45-46, 48-49, 64, 72-73, and 88 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. The following rejection to claims 15, 22-23, 38, 45-46, 48-49, 64, 72-73, and 88 reciting the limitation “micro-price range”, still **stands rejected**, under the 112, second paragraph. There is insufficient antecedent basis for this limitation in the claim. Additionally, claim 1 recites “micro-pricing”. It is unclear whether this is intended to be the same as or different from the “micro-price range” stated within claims 15,38,64, and 88. Thus, all claims 15,38,64, and 88 have been examined with the examiner's broadest reasonable interpretation as herein. Examiner

states that “micro-price range” and “micro-pricing” are not equivalent, wherein “micro-price range”, is interpreted to be a range of small monetary value, such as \$0.05 – 0.20 and wherein “micro-price” is interpreted to be a set price on an item per se, wherein the price is already pre-determined.

7. However, claims 22-23,45-46,48-49 and 72-73 rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps, wherein “**calculating**” a creative content file rating” and “**combined**” rating. The Examiner **withdraws** this rejection under 35 U.S.C 112, second paragraph

Claim Rejections – 35 U.S.C – 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 194 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stefik et al (US Patent No. 5,629,980, hereinafter Stefik) in view of Chatani et al (EP Patent No. EP 1 255 213 A2, hereinafter Chatani).

Claims 1 and 24:

Regarding claims 1 a method and 24 a system, Stefik teaches a system/method for distributing a plurality of electronic creative content files (column 3, lines 51-56, Stefik) utilizing

micro-pricing (column 23, lines 51-53, wherein the development of low-overhead billing for transactions are in small amounts and column 48, lines 39-41, Stefik), comprising:

a processor for executing an application (see Figure 12, diagram 1201, and column 4, lines 8-9, Stefik); and

a memory in communication with the processor (see Figure 12, diagram 1202, Stefik), wherein the application comprises:

a first code segment for receiving the electronic article content files from a plurality of users (column 13, lines 62-64, Stefik);

a second code segment for storing the electronic article content files in the memory, the creative content files being retrievable from the memory (see Figure 12, diagram 1207 and column 14, lines 28-29, Stefik);

Stefik discloses all the limitations above as well as a ranking system relating to digital works, which is equivalent to electronic article content file and ensuring different levels/measures of security. However, Stefik is silent with respect to calculating an electronic article content file rating for one of the plurality of electronic article content files. On the other hand, Chatani discloses calculating an electronic article content file rating for one of the plurality of electronic article content files (Figure 5, all features, wherein a rating a book is shown a user selects one of the documents to click and get a rating estimate, Figure 5, wherein the rating is illustrated, Chantani).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Stefik teaching Chatani teaching to implement a rating function based on a content. A skilled artisan would have been motivated to do so incorporating a rating function

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based on content to allow a user to evaluate an item according to the feedback of the item (see Figure 6, diagram 612, wherein the value field/rating is indicated by “stars”, Chantani) according to its rating before the user decides to purchase that particular item via Web, by implementing this feature the user has a “say”, regarding the feedback per se, wherein if the feedback may be based on a user rate, ex. EBay and so forth before deciding whether or not to purchase that item.

a **fourth code segment for** receiving a request for the purchase of one of the **electronic article** content files from one of a plurality of users (see Figure 2, diagram 201 and column 7, lines 43-55, Stefik);

a **fifth** code segment for debiting funding from an electronic funding account associated with one of the plurality of users (column 24, lines 4-45, Stefik); and

a **sixth** code segment for transmitting the **electronic article** content file ' to the one of the plurality of users (column 23, lines 1-2, Stefik).

Claims 2,25,50,and 74:

Regarding claims 2,25,50, and 74, the combination of Stefik in view of Chantani teaches providing for establishing the electronic funding account associated with the one of the plurality of users (column 24, lines 26-29 and lines 34-42, Stefik).

Claims 3,26,52, and 76:

Regarding claims 3,26,52, and 76, the combination of Stefik in view of Chantani teaches the step of providing for:

crediting the electronic funding account associated with the one of the plurality of users (column 48, lines 18-20, Stefik).

Claims 4,27,53 and 77:

Regarding claims 4,27,53 and 77, the combination of Stefik in view of Chantani teaches the step of providing for:

establishing a user account for one of the plurality of users (column 27, lines 44-48, column 29, lines 42-56, Stefik).

Claims 5,28,54, and 78:

Regarding claims 5,28,54, and 78, the combination of Stefik in view of Chantani teaches wherein the memory comprises an index of the **electronic article** content files stored in the memory (column 4, lines 29-32, Stefik).

Claims 6, 29,55, and 79:

Regarding claims 6 29,55, and 79, the combination of Stefik in view of Chantani teaches the step of providing for searching the index (column 49, lines 4-7 and column 48, lines 65-67, Stefik) to locate one of the **electronic article** content files based on at least type, subject matter, author name, submitter name, title, date, and/or rating (columns 9-10, lines 54-57 and lines 1-2, respectively and column 10, lines 59-65, wherein Table 1 is listed, Stefik).

Claims 7,30,56, and 80:

Regarding claims 7,30,56, and 80, the combination of Stefik in view of Chatani teaches the step of providing for receiving a revised version of one of the **electronic article** content files from one of the plurality of users (column 35, lines 55-58, and lines 61-65, Stefik).

Claims 8,31,57, and 81:

Regarding claims 8,31,57 and 81, the combination of Stefik in view of Chantani teaches wherein the step of receiving the creative content files from the plurality of users comprises the

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step of providing for receiving a summary of the one of the **electronic article** content files from one of the plurality of users (see Figure 1, all features and column 7, lines 33-37, Stefik).

Claims 9,32,58, and 82:

Regarding claims 9,32,58, and 82, Stefik teaches the step of providing for generating a summary of one of the **electronic article** content files (see Figure 3, all features, column 8, lines 10-20, and column 17, lines 24-29, Stefik).

Claims 10,33,59, and 83:

Regarding claims 10,33,59 and 83, the combination of Stefik in view of Chatani teaches the step of providing for classifying one of the **electronic article** content files received from the plurality of users based on at least type (see Figure 2, wherein various repository types are defined, Stefik), subject matter (column 10, Table 1, all digital work state information, Stefik), submitter name (column 27, lines 17-18, Stefik), title (column 27, line 18, wherein the session identifier is equivalent to title, Stefik), author name (column 10, lines 64-65, Stefik), date (column 19, lines 1-3, Stefik), and/or rating (column 10, lines 59-65, wherein Table 1 is defined, Stefik).

Claims 11,34,60, and 84:

Regarding claims 11,34,60, and 84, the combination of Stefik in view of Chatani teaches wherein the step of providing for determining the type of the one of the **electronic article** contents files (column 51, lines 1-4, Stefik).

Claims 12,35,61, and 85:

Regarding claims 12,35,61, and 85, the combination of Stefik in view of Chatani teaches the step of providing for transmitting summaries of the **electronic article** content files to one of

the plurality of users (column 33, lines 1-7, wherein transmitting information during a transaction and column 20, line 4, Stefik), the summaries sorted by at least type (see Figure 2, wherein various repository types are defined, Stefik), subject matter (column 10, Table 1, all digital work state information, Stefik), submitter name (column 27, lines 17-18, Stefik), title (column 27, line 18, wherein the session identifier is equivalent to title, Stefik), author name (column 10, lines 64-65, Stefik), date (column 19, lines 1-3, Stefik), and/or rating (column 15, lines 41-44, wherein document repositories have a ranking system, Stefik).

Claims 13,36,62, and 86:

Regarding claims 13,36,62, and 86, the combination of Stefik in view of Chatani teaches providing for establishing the price of one of the electronic article content files (column 24, lines 34-42, Stefik).

Claims 14,37,63, and 87:

Regarding claims 14,37,63, and 87, the combination of Stefik in view of Chastain teaches wherein the step of providing for establishing the price of one of the electronic article content files comprises the step of:

providing for receiving the price of the electronic article files from the submitter of the creative content file (column 24, lines 48-57, Stefik).

Claims 15,38,64, and 88:

Regarding claims 15, 38,64, and 88, the combination of Stefik in view of Chatani teaches the step of:

providing for limiting the submitter of the **electronic article** content file to a predefined micro-price range (column 21, lines 53-55 and columns 21-22, lines 62-67 and lines 1-8, wherein some rights may be exercised during a fixed and predetermined durations, Stefik).

Claims 16,39,65, and 89:

Regarding claims 16,39,65, and 89, the combination of Stefik in view of Chatani teaches wherein the step of providing for establishing the price of one of the **electronic article** content files (column 44, lines 5-10, wherein the seller sets his/her own price, Stefik) comprises the step of:

providing for determining the price based on at least length, date, author, subject matter, and/or type (column 44, lines 15-18, wherein an distributor (i.e. submitter) grants an Extract [refer to Table 1, column 10, lines 61-65] right on the shell, Stefik).

Claims 17,40,66, and 90:

Regarding claims 17,40,66, and 90, the combination of Stefik in view of Chatani teaches the step of: providing for preventing the purchase of one of the **electronic article** content tiles (column 44, lines 54-59, Stefik) by one of the plurality of users if the one of the plurality of users does not have an established electronic funding account (columns 44-45, lines 63-67 and lines 1-3, wherein only license distributors can add fees to be paid, Stefik).

Claims 18,41,67, and 91:

Regarding claims 18,41,67, and 91, the combination of Stefik in view of Chatani teaches displaying the **electronic article** content file on a Web site, electronically mailing the **electronic article** content file, and/or providing the **electronic article** content file for download (column 4,

lines 28-32, and column 9, lines 9-23, wherein information is displayed and stored in the customer database associated with customer id, Chatani).

Claims 19,42,69, and 92:

Regarding claims 19,42,69, and 92, the combination of Stefik in view of Chatani teaches the step of providing for notifying the submitter of the **electronic article** content file that the **electronic article** content file has been purchased (column 47, lines 41-44, wherein it alerts the creator that the upgrade transaction has taken place, Stefik).

Claims 20, 43,70, and 93:

Regarding claims 20,43,70, and 93, the combination of Stefik in view of Chatani teaches wherein the step of providing for notifying the submitter of the **electronic article** content file that the **electronic article** content file has been purchased comprises providing for at least displaying purchase information on a Web site (column 4,lines 28-32 and column 9, lines 9-23, wherein information is displayed and stored in the customer database associated with customer id, Chatani) and/or electronically mailing purchase information to the first user (column 4, lines 46-53, wherein a response to a message is transmitted to the client over a network by the server, Chatani).

Claim 21 and 44:

Regarding claims 21 and 44, the combination of Stefik in view of Chatani teaches wherein each of the **electronic article** content files a type, a subject matter, an author name, a submitter, name, a title, and/or a date, further comprising the step of:

providing for ranking the plurality of creative content files for at least type subject matter, author name, submitter name, and/or date (column 15, lines 41-44, wherein document repositories have a ranking system, Stefik).

Claims 22,45,48,and 72:

Regarding claims 22,44,48 and 72, the combination of Stefik in view of Chatani teaches wherein providing for calculating (column 3, lines 2-7, Chatani) a **the rating is** based on the number of times the one of the plurality of creative content files has been purchased (see Figure 5, all features, column 9, lines 33-42, wherein purchasing of books, column 10, lines 25-45, wherein rating function is utilized, Chatani).

Claims 23,46,49 and 73:

Regarding claims 23,46,49, and 73, the combination of Stefik in view of Chatani teaches wherein the step of ranking comprises:

providing for calculating **the rating is** based on at least one user rating received from at least one of the plurality of users (see Figure 6,all features and column 11, lines 8-33, wherein a combined rating is utilizing value of reading, and similarity rate, Chatani).

Claims 51 and 75:

Regarding claims 51 and 75, the combination of Stefik in view of Chantani teaches providing for debiting funding from an electronic funding account associated with one of the plurality of users (column 24, lines 4-45, Stefik).

Claims 68 and 94:

Regarding claims 68 and 94, the combination of Stefik in view of Chantani teaches the step of providing for generating a Web Page (column 2, lines 42, 43, Chatani) for one of the

plurality of user based on the ranking of the plurality of **electronic article** content files (column, 6, lines 21-34, wherein a web page is created, Chatani).

Claims 71 and 47:

Regarding claims 71 a system and 47 a method, the combination of Stefik in view of Chantal teaches a system/method for distributing a plurality of electronic creative content files (column 3, lines 51-56, Stefik), wherein each creative content file has at least type, subject matter, author name, submitter name, title, and/or date, comprising:

a processor executing an application (see Figure 12, diagram 1201, and column 4, lines 8-9, Stefik); and

a memory in communication with the processor (see Figure 12, diagram 1202, Stefik); wherein the application comprises:

a first code segment for receiving the creative content files from a plurality of users (column 13, lines 62-64, Stefik);

a second code segment for storing the creative content files in a memory, the creative content files being retrievable from the memory (see Figure 12, diagram 1207 and column 14, lines 28-39, Stefik);

a third code segment for ranking the plurality of creative content files for at least type, subject matter, author name, submitter name, title, and/or date (column 15, lines 41-44, wherein document repositories have a ranking system, Stefik);

a fourth code segment for receiving a request for the purchase of a creative content file from one of a plurality of users (see Figure 2, diagram 201 and column 7, lines 43-55, Stefik); and

a fifth code segment for transmitting the creative content file to the one of the plurality of users (column 23, lines 1-2, Stefik).

Examiner Response

13. Applicant argues the prior art fails to teach, “*providing for calculating an electronic article content file rating for one of the plurality of electronic article content files*”.

Applicant argues the amended claim limitation. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *providing for calculating an electronic article content file rating for one of the plurality of electronic article content files*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

14. Applicant argues the prior art fails to teach, “*calculating a rating for an electronic article content file that operates in such way*”, wherein cited on the page 19 within applicant's remarks, applicant states that calculating an electronic article file rating is based on the number of times the electronic article content files have been purchased, alternatively, the rating can be based on a user rating received from a least one of the plurality of users.

Applicant argues the amended claim limitation. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features

upon which applicant relies (i.e., *calculating a rating for an electronic article content file that operates in such way*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

15. Applicant argues the prior art fails to teach, “*a fifth code segment for transmitting the creative content file to the one of the plurality of users*”,

Examiner respectfully disagrees. Referring to Figure 19, all features, wherein data is transmitted from the server to the client and column 3, lines 33-40, wherein transmits the information to a transaction center, from the transaction center a bill is generated and sent to the user, wherein the transaction center also maintains customer accounts so that licensing fees may be forwarded directly to the software providers.

16. Applicant argues the prior art fails to teach, “*transmission of the electronic article content files*”.

Applicant argues the amended claim limitation. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *transmission of the electronic article content files*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the

17. Applicant argues the prior art fails to teach, “*the rating element or the transmission of the electronic article content file*”.

Applicant argues the amended claim limitation. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *transmission of the electronic article content files*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the.

In regards to a rating element, Chatani et al discloses a rating element, see Figure 5, all features.

Prior Art of Record

(The prior art made of record and not relied upon is considered pertinent to applicant's disclosure)

1. Stefik et al (US Patent No. 5,629,980) discloses a system for controlling use and distribution of digital works, wherein the owner of a digital work attaches usage rights to that work.
2. Chatani et al (EP Patent No. EP 1 255 213 A2) discloses a system and computer-based method for providing a network environment, customized text, content rating and/or review based on certain information, wherein information is based on what a customers has read.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

19. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helene R. Rose whose telephone number is (571) 272-0749. The examiner can normally be reached on 8:00am - 4:30pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Helene R Rose
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June 13, 2006


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SUPERVISORY PATENT EXAMINER